

Application No. 10/740,747
Amendment dated August 28, 2007
Reply to Office Action of August 21, 2007

acknowledges that the arguments countering these rejections have apparently been successful.

In the present Office Action, the Examiner articulates two objections to Applicant's specification. According to the Examiner, "the amendment filed January 23, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure," and "it isn't clear how this application is entitled to a filing date of June 13, 1998." Regarding the objections to Applicant's specification, the Examiner further indicates that "the added material which is not supported by the original disclosure is as follows: a helical thread, a helical thread twisted, a helical thread being blunt," and that "a review of the original disclosure doesn't recite that the thread is helical."

Regarding the Examiner's objection based on the introduction of new matter, Applicant submits that Applicant's previous responsive communication was a Reply filed June 12, 2007. Neither Applicant's Reply of June 12, 2007 nor any of Applicant's previous responsive communications (including Applicant's Amendment of January 23, 2006) included amendments (except for amending the title) to Applicant's specification. Accordingly, Applicant is confused by the Examiner's contention that new matter has been introduced to Applicant's specification by amendment.

Additionally, Applicant is confused by the Examiner's contention that the original disclosure doesn't recite that the thread is helical. By their very nature, threads are helical. For example, according to the American Heritage Dictionary, Fourth Edition (2000), the word "thread" is defined as "a helical or spiral ridge on a screw, nut, or bolt." As such, threads 53 disclosed in the present application are by their very nature helical. Additionally, helical threads are shown in cross-section in Figs. 4D and 5 on an implant 50 according to the present invention, and the present application indicates that the threads 53 can include "a series of interjections, the ends of which are blunted and twisted so as to resist unscrewing." (Applicant's specification, page 12, lines 23-25). Therefore, the present application includes support for helical threads being blunted or twisted as recited in the claims.

Application No. 10/740,747
Amendment dated August 28, 2007
Reply to Office Action of August 21, 2007

Regarding the Examiner's contention that "it isn't clear how this application entitled to a filing date of June 13, 1998," Applicant submits that the present application claims a priority date (not a filing date as indicated by the Examiner) of June 13, 1988 (not June 13, 1998 as indicated by the Examiner). As indicated in Applicant's specification, the present application is entitled to the June 13, 1988 priority date because it is a continuation of U.S. Application No. 10/685,776, filed October 15, 2003; which is a continuation of U.S. Application No. 08/480,684, filed July 7, 1995; which is a divisional of U.S. Application No. 07/968,240, filed October 29, 1992, now U.S. Patent No. 5,741,253; which is a continuation of U.S. Application No. 07/698,674, filed May 10, 1991, now abandoned; which is a divisional application of U.S. Application No. 07/205,935, filed June 13, 1988, now U.S. Patent No. 5,015,247.

Like the present application, U.S. Patent No. 5,015,247 indicates that threads 53 can include "a series of interjections, the ends of which are blunted and twisted so as to resist unscrewing." (U.S. Patent No. 5,015,247, column 8, lines 48-51). Accordingly, both the present application and U.S. Patent No. 5,015,247 include support for helical thread being blunted or twisted as recited in the claims.

The Examiner has rejected claims 1 and 10-31 under 35 U.S.C. § 112, first paragraph, because, according to the Examiner, "it isn't clear as to what the helical thread, the helical thread being blunt or the helical thread being twisted are in reference to." Furthermore, the Examiner has rejected claims 1 and 10-18 and 28 under 35 U.S.C. § 112, second paragraph, because, according to the Examiner, "it isn't clear as to what the helical thread, the helical thread being blunt or twisted are in reference to." In response to the Examiner's rejections under 35 U.S.C. § 112, first and second paragraphs, Applicant submits that helical threads are shown in cross-section in Figs. 4D and 5 on the implant 50, and the present application indicates that the threads 53 can include "a series of interjections, the ends of which are blunted and twisted so as to resist unscrewing." (Applicant's specification, page 12, lines 23-25). Therefore, to the satisfaction of the requirements of 35 U.S.C. § 112, first and second paragraphs, the

Application No. 10/740,747
Amendment dated August 28, 2007
Reply to Office Action of August 21, 2007

present application includes support for a helical thread being blunted or twisted as recited in the claims. In conclusion, Applicant submits that the rejections under 35 U.S.C. § 112, first and second paragraphs, have been overcome, and that claims 1 and 10-31 are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: August 28, 2007

By: 
Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030